

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

The Estate of Yaron Ungar, et al.,

Plaintiffs,

v.

Orascom Telecom Holding S.A.E., et al.,

Defendants.

Case No. 05-CV-7765 (CM) (LMS)

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, Orascom Telecom Holding S.A.E. respectfully moves this Court for an order dismissing with prejudice Plaintiffs' First Amended Complaint in its entirety. Plaintiffs' First Amended Complaint, served by the Electronic Case Filing System on January 26, 2006, should be dismissed outright because this Court's ruling in a related case that the Court lacks personal jurisdiction over Orascom has preclusive effect here under the doctrine of collateral estoppel. In addition, the First Amended Complaint should be dismissed in its entirety (i) pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure for lack of subject-matter jurisdiction; (ii) pursuant to Rule 12(b)(2) for lack of personal jurisdiction over Orascom; (iii) pursuant to Rule 12(b)(6) because Plaintiffs have failed to state a claim for equitable relief under a creditor's bill or supplemental bill or, alternatively, pursuant to N.Y. C.P.L.R. §§ 5225 and 5227; and (iv) because this Court lacks jurisdiction over the alleged money, property, or debt.

Orascom hereby incorporates by reference its briefs filed in the related proceedings before this Court under miscellaneous docket number 18 MS 0302, as well as its oral argument

before this Court on September 13, 2005, regarding the issues of personal jurisdiction, subject-matter jurisdiction, and jurisdiction over the alleged property, money or debt.¹

Dated: February 13, 2006

Respectfully submitted,

WHITE & CASE LLP

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¹ See Nonparties Orascom Telecom's and Khaled Bichara's Mot. to Quash [Bichara] Subpoena, at 5 (June 21, 2005); Nonparty Orascom's Mot. to Quash the Orascom Subpoena, at 3-4 (July 6, 2005); Consolidated Reply Mem. in Support of Nonparties Orascom Telecom Holding S.A.E.'s and Khaled Bichara's Mots. to Quash Subpoenas, at 1-2, 3-7 (Aug. 4, 2005); Decl. of Amr Esmat Abaza (Aug. 3, 2005); Mem. in Support of Nonparty Naguib Sawiris's Opp'n to Plaintiffs' Mot. for a Subpoena Pursuant to 28 U.S.C. § 1783, at 7-12 (Sept. 7, 2005); Nonparties Orascom Telecom Holding S.A.E. and Khaled Bichara's Opp'n to Pls.' Mot. to Strike Decl. or Examine Declarant, at 1-9 (Sept. 9, 2005); Supplemental Decl. of Amr Esmat Abaza (Sept. 9, 2005); Mem. of Law in Support of Nonparty Orascom Telecom Holding S.A.E.'s Mot. to Quash Outstanding Nonparty Subpoenas, at 3-8 (Sept. 11, 2005); Hr'g Tr. 20-23, Sept. 13, 2005; Second Supplemental Decl. of Amr Esmat Abaza (Sept. 23, 2005); Orascom Telecom's Reply in Support of Its Mot. to Quash Nonparty Subpoenas, at 2-10 (Sept. 26, 2005).